

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-CV-00067-BO

CITIBANK, N.A., *et al.*,)
)
Plaintiffs,)
)
v.)
)
BRIAN DAY,)
)
Defendants.)

ORDER

Before the Court is the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Robert T. Numbers, recommending the Court remand this matter to North Carolina Superior Court because Defendant, as the removing party, has failed to show that this Court has subject-matter jurisdiction in this action. [DE 36]. Judge Numbers notified the parties that they must file any objection to the M&R within 14 days after the M&R was served. No objections have been filed.

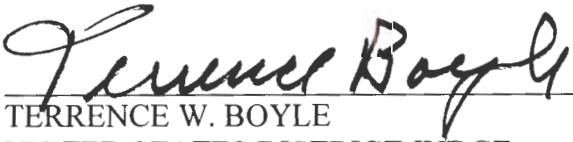
“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (cleaned up) (emphasis omitted); see also 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.”).

But when the parties do not object to the magistrate’s recommendation, mandatory de novo review is not necessary. *Elijah v. Dunbar*, 66 F.4th 454, 459–60 (4th Cir. 2024). Instead, the court

reviews for clear error only. *Dunlap v. TM Trucking of the Carolinas, LLC*, 288 F. Supp. 3d 645, 662 (D.S.C. 2017); *Diamond*, 416 F.3d at 316. On clear error review, the court has no obligation to explain its reasoning for adopting the report, *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). And, as always, the district court “may accept, reject, or modify, in whole or in part, the findings and recommendations” in the M&R. 28 U.S.C. § 636(b)(1).

After careful review of the M&R and the entire record presented, the Court finds no clear error. Accordingly, the Court ADOPTS the M&R [DE36] as its own. For the reasons stated therein, the Court REMANDS this action to North Carolina Superior Court. All pending motions are DENIED AS MOOT.

SO ORDERED, this 30 day of August 2024.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE